

Item 23-0822: 2001 S. Matthias St. (31-9-3199-00) The proposed plan shows a five (5) foot landscape buffer along the southeast corner of the parking lot. Section 23-172(h) Table 2 of the Zoning Ordinance requires an eight (8) foot landscape buffer when across from a property zoned C2

Board of Zoning Appeals
Mon, Jul 17, 2023 7:00PM

Paul McCann (BOZ Chair) 21:04

So next up is 2001 South Mathias Street. Kurt if you'd go ahead and read that request, please.

Supervisor Kurt Craanen (Inspections) 21:12

The proposed plan shows a five-foot landscape buffer along the southeast corner of the parking lot. Section 23-172 H table 2 of the zoning ordinance requires an eight-foot landscape buffer when across from a property zoned as C-2.

Paul McCann (BOZ Chair) 21:30

You can introduce yourselves, please.

Susie K. (Engage Orthodontics) 21:32

I'm [Susie K.] I'm the orthodontist at the property that we are talking about, and my husband, [Steven K.] Practice Manager and Manager of life.

Paul McCann (BOZ Chair) 21:49

Okay, so I had a little difficulty understanding the changes that you're making based on—I drive by her twice a day. So, I have a lot of opportunity—and walk past a couple times a week. But I just can't tell what you're modifying from today. So, if you can just explain a little bit of that and then talk about what hardship you want us to consider.

Paul McCann (BOZ Chair) 22:17

Is this still a touchscreen, Kurt?

Supervisor Kurt Craanen (Inspections) 22:19

I don't think it is.

Paul McCann (BOZ Chair) 22:20

Okay. They used to be touchscreens. You had to be a little careful. But go ahead and show us what...

Steven K. (Engage Orthodontics) 22:24

I'm trying to [...] on my monitor. So. Okay, so. Well, the context that's missing here. So, this was a very long time coming, because you can see there's very limited parking here, right? So, I forget what the exact numbers were in there, but she sees 20—could be 20 patients at any given time. So, she's got six chairs; she's got two exam rooms. There's just people flowing through here very quickly. So, I don't know how many people know, in the orthodontic world she can see 100 patients a day. So, this is very—and it you know, it's not spread evenly throughout the day. So, we get very busy times here. So, this space here has always been an issue because we acquired this practice in 2017, I think it was. And it has grown a lot since then.

Steven K. (Engage Orthodontics) 23:12

So once upon a time this was fine. The last five years has grown—six years, it's grown so much that we've got staff members that are parked way down here and also along with the street here too. So once upon a time, we had people park on both sides of the street, but then we got complaints from neighbors saying this is a safety hazard. So, then we used the church parking lot down the street for our staff members to allow for more people to park here because of the velocity of all the patients.

Steven K. (Engage Orthodontics) 23:48

So then fast forward to the last couple of years, the parking lot started falling apart. So, this island here is all falling apart like the wood. We repaired that a few times. But the also the blacktop is got potholes, cracks, I mean, it's really beat up bad. So, we brought in Absolute Asphalt. They came in. We had a few different estimates, and they're the ones that we're gonna go with. And he said, we really don't recommend that you resurface it because you're not going to be happy with it long term, short term, because of the [unclear] potholes, and he said, I highly recommend you redo it. Break it up and just, you know, resurface it entirely. So, then we said, Okay, we'll spend a little extra money to do it the right way. And then because of this issue with parking, we said, you know, is there any way we could reconfigure this to add just even two more spaces would be better than nothing, right? So back to the drawing board, he came back with a few different options, which I think is the plan that got submitted to you guys. And one of the things was adding a few spots here which would give us what we're looking for, and like I said, just even a couple spots. It's not—it's still not ideal. We could probably use 10 Extra spots. But if we can get 2 out of the deal or three out of the deal, that's better than nothing.

Kelly Sperl (BOZ Member) 25:03

So, the setback that you're wanting to—or the landscape buffer that you're wanting to approach upon is on the street side?

Susie K. (Engage Orthodontics) 25:09

Correct.

Kelly Sperl (BOZ Member) 25:09

That piece?

Steven K. (Engage Orthodontics) 25:10

Yep.

Kelly Sperl (BOZ Member) 25:11

So, the driveway down to—

Steven K. (Engage Orthodontics) 25:12

3 feet of this 8-foot space.

Paul McCann (BOZ Chair) 25:13

Kurt, did we get a new layout?

Kelly Sperl (BOZ Member) 25:16

I didn't see one.

Paul McCann (BOZ Chair) 25:17

I don't think it was ever shared with us. So that's why it's been a little confusing to try to figure out which eight foot

Supervisor Kurt Craanen (Inspections) 25:23

Yeah, I saw he had submitted to you guys—

Kelly Sperl (BOZ Member) 25:26

How are you gonna get four stalls in three feet, though?

Susie K. (Engage Orthodontics) 25:29

So, they—they were able to pick up

Paul McCann (BOZ Chair) 25:34

Think they're reconfiguring the whole thing without that island in the middle?

Susie K. (Engage Orthodontics) 25:37

So, there's still—our understanding is we have to keep island in the middle, but we can shrink it. So, we were able to pick up a few more. Oh yeah, he has it there. So, we were able to pick up six spaces total by shrinking that eight-foot piece of land between the sidewalk and the parking lot to just five feet. If we can reduce it three feet, it allows us to pick up those extra spaces.

Kelly Sperl (BOZ Member) 26:02

So, there's quite a distance in that green space now. 'Cause there's many stalls are typically 18 feet deep. You're probably taking 14 or 15 into the green space if this is sketch correctly.

Paul McCann (BOZ Chair) 26:16

Yeah, there's 10 or 12. I mean, it's probably 12 feet from the sidewalk, maybe 14.

Kelly Sperl (BOZ Member) 26:22

But if they're leaving a five-foot buffer there versus an eight foot, they can only pick up three feet of the green space.

Paul McCann (BOZ Chair) 26:28

No, they're required to have eight feet. I think there's probably 12 or 15 feet there, right?

Kelly Sperl (BOZ Member) 26:32

That's what I'm saying. It must be—yeah, I was curious what that dimension is.

Steven K. (Engage Orthodontics) 26:36

Whatever it is, it reduces it—to your point—five feet. Yes. Yep.

Susie K. (Engage Orthodontics) 26:40

So, we can't—oh, I'm so sorry. We can't go the opposite direction because the easement between—because it's residential area there. So that the only place they could figure it to help us pick up those other spaces...

Steven K. (Engage Orthodontics) 26:51

Yeah, so that was the next thing we tried. We said, okay let's just go back to the drawing board to see what else we can do here. So, then you can't see it real well on here, but if you're looking from the Street View, this area here is what she's referring to.

Paul McCann (BOZ Chair) 27:06

Yeah, it's pretty dense vegetation there.

Steven K. (Engage Orthodontics) 27:08

And there's a fence there, and there's trees that we'd have to knock down everything else. And it's a drainage easement. So that would be an issue too if there ever—if you guys ever had to get access to it?

Kelly Sperl (BOZ Member) 27:18

Well, plus, that's a budding residential property.

Steven K. (Engage Orthodontics) 27:21

Correct.

Kelly Sperl (BOZ Member) 27:21

And the buffer zones for residential property are more strict in a sense than commercial.

Steven K. (Engage Orthodontics) 27:28

Correct.

Paul McCann (BOZ Chair) 27:28

So, Kurt, tell me what's, what's the eight-foot requirements? Because there's C-2 across the street?

Supervisor Kurt Craanen (Inspections) 27:35

Correct? There's there's a chart in the zoning code.

Paul McCann (BOZ Chair) 27:37

But it's it's—if that was residential across the street, would it be different than if it's C-2 across the street?

Kelly Sperl (BOZ Member) 27:46

You're not separating from the commercial across the street, you're providing a required buffer at the street.

Paul McCann (BOZ Chair) 27:52

But the reason for the eight foot is it's adjacent to a C-2.

Kelly Sperl (BOZ Member) 27:58

It's part of the C-2. I don't think it's adjacent to the C-2 because you're abutting a street.

Paul McCann (BOZ Chair) 28:03

It says an eight-foot landscape buffer when across from a property zoned C-2. So that's, that's the part...

Kelly Sperl (BOZ Member) 28:11

That may be not—I guess we'd have to ask Kurt, but I don't know if that's worded

Paul McCann (BOZ Chair) 28:15

It may be semantics

Steven K. (Engage Orthodontics) 28:16

And what's a C-2?

Paul McCann (BOZ Chair) 28:18

The commercial.

Kelly Sperl (BOZ Member) 28:19

Commercial. Yeah, I'm guessing you're a C-2 as well.

Steven K. (Engage Orthodontics) 28:20

Yeah. And that is another commercial across the street there. Yep.

Kelly Sperl (BOZ Member) 28:24

I'm guessing that really should just read that an eight-foot landscape buffer is required within a C-2 rather than across from a C-2.

Supervisor Kurt Craanen (Inspections) 28:34

It's eight feet whether it's residential or commercial.

Kelly Sperl (BOZ Member) 28:36

Okay. But but this isn't really talking about this property across the street is it Kurt, the way that's worded? On the description of the proposal?

Scott Engstrom (BOZ Member) 28:48

The last sentence. It requires an eight-foot landscape buffer...

Supervisor Kurt Craanen (Inspections) 28:53

When across from a property zoned C-2.

Kelly Sperl (BOZ Member) 28:55

But but its own property is a C-2 and it's going to be required to have that eight feet anyway. Right?

Paul McCann (BOZ Chair) 29:02

That's what was confusing.

Kelly Sperl (BOZ Member) 29:03

Yeah, no, I see your point. Yeah, absolutely.

Paul McCann (BOZ Chair) 29:09

I didn't know why the property across Mathias Street would impact whether you have 8 foot or 2 foot or 10 feet.

Steven K. (Engage Orthodontics) 29:18

And I don't know if it's worth noting or not, but you can see—so this. This is how desperate we were at one point. We're—we've been waiting for years for this property to go on sale figuring we'll just knock it down, extend the parking lot, you know, probably apply to rezone because I'm sure it's residential and see what we can

do with that. So, it did go for sale, very recently, and then we crunch the number, and we said that doesn't make any sense. If we're going to do that, we might as well just go move it somewhere else, pick up this whole thing, and just go somewhere else. So, we did not do that. Someone else purchased that home, and now there's new residents there.

Kelly Sperl (BOZ Member) 30:03

Is the drainage easement—is it a swale or is it underground piping in the on the west side?

Steven K. (Engage Orthodontics) 30:11

I believe it's underground piping.

Susie K. (Engage Orthodontics) 30:12

I think it is too.

Paul McCann (BOZ Chair) 30:17

See I—I think that the other thing that will come into play is all the other perimeter landscape features that need to be—and it's probably different, it's probably less than if that was residential across the street. If it's C-2 to C-2 it's probably some some what...got a... Okay. So, there's a tree there now. The tree probably has to come out because that would be inside your or outside of your five feet.

Paul McCann (BOZ Chair) 30:53

I don't know if it's the neighbor's tree or your tree, but something was damaged in that recent wind, wasn't it? Isn't there a branch down? Right in that corner? All right. But you still—I mean, do you still have a fairly significant parking deficiency? I mean, regardless of what happens here.

Susie K. (Engage Orthodontics) 30:53

Likely yes.

Susie K. (Engage Orthodontics) 31:20

We do, but picking up six spaces during—six spaces in our lot is a significant amount for—because you know, at anytime during it, if I am I able to keep my team over—we rent the space from that church. If I'm able to keep them there. Is that ideal? It's absolutely not. But six spaces at any given time during our patient time, especially in the winter with the ice would help tremendously. I mean, in theory, that's number of chairs that I have.

Kelly Sperl (BOZ Member) 31:52

How much space is there from the drainage, or the property line to the pavement on the west side? Anybody know that?

Paul McCann (BOZ Chair) 32:04

It's hard to tell where the property line is there because it is fairly dense vegetation.

Kelly Sperl (BOZ Member) 32:12

Yeah, from there to the pavement and roughly that...

Supervisor Kurt Craanen (Inspections) 32:17

For all the way to here?

Kelly Sperl (BOZ Member) 32:19

Probably right to the where the two is, you know that that edge there.

Paul McCann (BOZ Chair) 32:26

It's probably the width

Kelly Sperl (BOZ Member) 32:27

Not all the way there. The first

Paul McCann (BOZ Chair) 32:28

the width of that strip.

Kelly Sperl (BOZ Member) 32:29

Right from there to the left.

Supervisor Kurt Craanen (Inspections) 32:31

Oh, like right here?

Steven K. (Engage Orthodontics) 32:32

About 10 feet.

Kelly Sperl (BOZ Member) 32:33

About 10 feet.

Paul McCann (BOZ Chair) 32:36

Sorry, Kurt. The the width of the drainage easement.

Supervisor Kurt Craanen (Inspections) 32:41

10 feet.

Paul McCann (BOZ Chair) 32:41

From the property?

Steven K. (Engage Orthodontics) 32:42

This is where [...] where that two is there.

Paul McCann (BOZ Chair) 32:45

Yeah.

Steven K. (Engage Orthodontics) 32:46

So, you can see, I mean, if you go back, people already kind of parking under those pines and stuff like that. So, if you were to go further into that, you'd have to take out the trees for sure.

Steven K. (Engage Orthodontics) 32:57

We'd have to put up something.

Kelly Sperl (BOZ Member) 32:57

Which now you're abutting a residential property, and...

Kelly Sperl (BOZ Member) 33:01

Yeah.

Paul McCann (BOZ Chair) 33:05

These people have sections of a four-foot fence you could take. [Note: That was a joke referencing [the first variance request](#) the board listened to that evening.]

Steven K. (Engage Orthodontics) 33:14

There is a chain link fence there, so.

Paul McCann (BOZ Chair) 33:18

So, any other questions for these folks?

Supervisor Kurt Craanen (Inspections) 33:25

I have some questions. Are you doing a site plan? Do you have a site plan that you are submitting for review? Or are you taking the pavement down to base?

Steven K. (Engage Orthodontics) 33:38

Yes. I think—I am not an expert on that. But that's my understanding is that

Supervisor Kurt Craanen (Inspections) 33:41

Your contractor is—you can just take everything out, and then go on gravel and you're like starting from scratch? Or sometimes they just mill over the top and then just restriped it and you know put a new layer on top and then restripe it.

Steven K. (Engage Orthodontics) 33:53

I believe taking down the base. Yep.

Kelly Sperl (BOZ Member) 33:56

That's gonna require stormwater management, isn't it?

Supervisor Kurt Craanen (Inspections) 33:58

Yeah, I think you're gonna go through the site plan process. I think you've talked to Jessica.

Steven K. (Engage Orthodontics) 34:03

Yep.

Supervisor Kurt Craanen (Inspections) 34:03

And have you submitted the site plan?

Steven K. (Engage Orthodontics) 34:05

Yes.

Supervisor Kurt Craanen (Inspections) 34:06

And this is the only—this issue over here with making this, you know, adding some parking is the only issue you had? Because you would have a a 10-foot buffer requirement to the south because that's residential. But that's not being asked of you. Your plan is just to keep it with where it is on the south side.

Steven K. (Engage Orthodontics) 34:28

I asked her what kind of showstoppers there were in what the feedback we got, and she said this was—the one that we're talking about tonight is the one that she said we'd have to apply for a variance. The other ones she thought we could work through those.

Kelly Sperl (BOZ Member) 34:43

It doesn't appear from the sketch he's provided that they're moving the south to the south. That doesn't mean with the amount of work you're doing that you might not...

Supervisor Kurt Craanen (Inspections) 34:53

This is what I'm thinking...

Paul McCann (BOZ Chair) 34:55

Could be non-conforming already.

Supervisor Kurt Craanen (Inspections) 34:56

It's it's it's non-conforming and you're not making that any worse, but you're making the area to south east, less conforming by by making—adding parking there. So that's what you're gonna ask for bearings for.

Steven K. (Engage Orthodontics) 35:13

Correct. Yes.

Kelly Sperl (BOZ Member) 35:14

Does the contractor calculate the lot coverage for you?

Steven K. (Engage Orthodontics) 35:17

Yes. The only issue is the, potentially if we shrink the size of that lot—I mean of the island in between the in the middle there, we would have to make sure it still is a 5% internal

Paul McCann (BOZ Chair) 35:36

The island is but then there's an overall impervious surface on the whole lot.

Steven K. (Engage Orthodontics) 35:40

Yes.

Kelly Sperl (BOZ Member) 35:41

As you're taking five feet or so that—or three feet of that east side out to.

Steven K. (Engage Orthodontics) 35:46

Yes.

Paul McCann (BOZ Chair) 35:49

Okay. So, the only thing in front of us is this particular issue, Kurt. If you've got other things that you're seeing that site plan should be looking at then that's still in front of you may be.

Steven K. (Engage Orthodontics) 36:02

Correct. We got it.

Paul McCann (BOZ Chair) 36:03

So, tell me, it looks like the cars will face Matthias. So, if the end of your paved surface is five feet now, and you'll put a curb or something there, a parking curb, so the front end of those vehicles, because you're reorienting them, though, are going to face east west. That will encroach even further into that space, right? By the length from the wheel to the front of the car. You take out the tree, there's gonna be nothing in the way of it being three feet from the sidewalk.

Steven K. (Engage Orthodontics) 36:37

You mean if they pull up their tires?

Paul McCann (BOZ Chair) 36:39

Yeah, if you bump up against whatever, you're gonna finish the end of the lot your...

Kelly Sperl (BOZ Member) 36:46

That's where like a shade tree requirement along the street may be a negative factor.

Paul McCann (BOZ Chair) 36:53

Well, it's going to, it's going to cause you with very little space to fulfill the other requirements of landscaping in that five-foot strip, because you're going to need two feet of it for people's bumpers. So, you know, take that into consideration. But it's the one other reason why we're reluctant to cut that down from eight feet is because of just exactly what you're doing. The way you orient the cars matters and reduces the amount of space you have for either bushes or trees. And when people put in bushes, then it makes it very hard for them to get out of that driveway and see the kid on its tricycle, that's on the sidewalk. So, we have to avoid all that stuff, too. That's—the eight foot helps with that as well.

Susie K. (Engage Orthodontics) 37:45

Can I promise to keep them trimmed?

Susie K. (Engage Orthodontics) 37:46

Well, it's a battle.

Susie K. (Engage Orthodontics) 37:49

No, that makes sense.

Paul McCann (BOZ Chair) 37:55

I need to go back to the fundamentals here. I mean, we need to find a hardship. And I appreciate that, you know, parking is an issue, but parking will continue to be an issue I think. I mean, with the number of patients you described to the amount of traffic here—you were talking about potentially 40 cars being engaged with the property at any given time. We're not solving that problem, right?

Paul McCann (BOZ Chair) 38:23

So, the variance goes with the life of the property, and it may create some other issues that are a little problematic. I mean, if you're so close to the sidewalk with front end of those cars, then people coming out of your lot—and they have to come out of your lot onto Matthias—may not be able to see south on Matthias to see who's coming on the sidewalk. Especially then if you have a tree required to be put in front of them, it's only going to be this far from the sidewalk, right? I mean how would you address that concern? I mean, what would you say is the hardship that overcomes that type of a concern?

Susie K. (Engage Orthodontics) 39:12

The two thoughts running through my head that I want to run past you is, right now the tree that's there, it's right on—because I'm assuming it was originally placed where it needed to be. I don't know if that—but it's right closest to like the driveway area. So, is that almost the opposite of what you're saying? But that's where it is currently.

Paul McCann (BOZ Chair) 39:33

Yep.

Susie K. (Engage Orthodontics) 39:33

So, if we're able to even move things down over towards the south side of that so that it's out of the way of the driveway area and smaller, if that would help that that particular thing? I know it's not—

Paul McCann (BOZ Chair) 39:45

I don't—I mean, there's a requirement for deciduous trees and shrubs in that space. And I don't I don't track on that stuff very well with the planning folks have that requirement. They'd tell you what there's acceptable or not. I agree that a tree placed further to the south would help the concern that I have.

Susie K. (Engage Orthodontics) 40:05

Okay.

Paul McCann (BOZ Chair) 40:05

The the four bumpers sticking out to the east—

Susie K. (Engage Orthodontics) 40:13

Got it.

Paul McCann (BOZ Chair) 40:14

—don't go away, and the tree to the south, I think it—I mean it maybe helps give you a little bit more vision to a car that might be coming on the right-hand lane heading north, but not that great still as far as the kid on the sidewalk.

Karen Cain (BOZ Member) 40:36

Do you know how deep the spaces are from east to west? And I'm wondering if there could be bumpers placed so that there can't be much overlap into that five feet of green space.

Kelly Sperl (BOZ Member) 40:49

Like wheel stops or something?

Karen Cain (BOZ Member) 40:50

Right.

Kelly Sperl (BOZ Member) 40:53

Well typically a parking stall is nine foot by 18 feet. So—

Paul McCann (BOZ Chair) 41:01

What it—Karen if you look at this, right, you've provided this. It looks like in order for there to be a car here and a car here, you're gonna have to be all the way forward in both. And I wouldn't want to park in either one of those spots myself—not with anything other than a compact car.

Susie K. (Engage Orthodontics) 41:22

The hardship, in my opinion, that we're trying to do is at any given time, you know, we talk about my my team members parking aside, so if we eliminate—if we keep doing that at any given time—so I have six chairs in my office that I'm running at any given time so to me picking up six more spots are those patients that are coming in at that time. And in the winter, especially if I know—and I'm constantly working on ways to help them funnel through so it's more of a drop off system, but if I have those extra spaces during that any given time during the day, I know that those patients who are immediately supposed to be in the chair at that time are taken care of in the lot without having to walk in in the winter

Kelly Sperl (BOZ Member) 42:10

Are you picking up four spaces or six? The application says four.

Susie K. (Engage Orthodontics) 42:14

And then this says six on here. I can't remember where it landed.

Steven K. (Engage Orthodontics) 42:18

I think it's four. I think it is four.

Susie K. (Engage Orthodontics) 42:20

Is it? Okay.

Steven K. (Engage Orthodontics) 42:20

Because there's—

Paul McCann (BOZ Chair) 42:22

It says 26 spaces. How many do you have today?

Steven K. (Engage Orthodontics) 42:25

Twenty-one.

Susie K. (Engage Orthodontics) 42:25

Yeah, that's where I was taking them from.

Scott Engstrom (BOZ Member) 42:26

They have 21.

Paul McCann (BOZ Chair) 42:27

Well, we got a different.

Susie K. (Engage Orthodontics) 42:29

So, we're picking up four.

Scott Engstrom (BOZ Member) 42:31
Currently provides 21 parking spaces.

Kelly Sperl (BOZ Member) 42:35
So, there's five spaces being added.

Susie K. (Engage Orthodontics) 42:36
Okay.

Kelly Sperl (BOZ Member) 42:38
Looks like one on the island area and four on the perimeter there, because you're cutting into that island.

Paul McCann (BOZ Chair) 42:45
It appears that.

Kelly Sperl (BOZ Member) 42:49
I see pick up that extra space—

Steven K. (Engage Orthodontics) 42:51
Yeah, I think the reason it's changed is—

Susie K. (Engage Orthodontics) 42:53
—and then here

Steven K. (Engage Orthodontics) 42:54
—there was one on the far north end that—I think that was one of the pieces of feedback that we can't park there because there's a dumpster there. So was this eliminate—

Paul McCann (BOZ Chair) 43:06
So, where the X-out is on the?

Steven K. (Engage Orthodontics) 43:08
Yeah.

Paul McCann (BOZ Chair) 43:10
Well even those three in that corner are gonna be interesting to navigate in and out of.

Steven K. (Engage Orthodontics) 43:25
Well, and the intent with that would be she would park there, so she'd kind of have that down, and probably—we usually have two staff members park there to alleviate that issue.

Paul McCann (BOZ Chair) 43:37
Where do you put snow?

Susie K. (Engage Orthodontics) 43:42
Good question right now. We—they put it in that corner so it's in the same same area as back here.

Kelly Sperl (BOZ Member) 43:49
Southwest corner?

Susie K. (Engage Orthodontics) 43:50

Yep. And I don't think they do any on this side and then how do they—yes, that is where it is. It goes into that corner.

Paul McCann (BOZ Chair) 44:08

So, Kurt, the required number of parking spaces for a building this size? Again, if you could remind?

Supervisor Kurt Craanen (Inspections) 44:14

Is 14.

Paul McCann (BOZ Chair) 44:14

Is 14?

Supervisor Kurt Craanen (Inspections) 44:16

Correct. You only need 14 parking spaces.

Paul McCann (BOZ Chair) 44:27

So, you know, according to the code and according to the way the city looks at a property this size or a building this size, it should only take 14 parking spots to satisfy the needs of the space. Obviously, you've got a different business model than what fits that code requirement. Trying to understand if that's if the—but we're still talking about an area variance. It's not a usage variance. We're not trying to approve the use of this as a as a orthodontist office. It's already an orthodox office. Okay.

Karen Cain (BOZ Member) 45:16

And you bought it as an orthodontist office, right?

Steven K. (Engage Orthodontics) 45:20

Yes.

Paul McCann (BOZ Chair) 45:22

I apologize for coming back to this concern that I have about the sidewalk, especially now, take a look—closer look at this—how close this one space is to the driveway. I mean, there really isn't any visual relief from someone driving out of your parking lot until the front of their car is probably on the sidewalk. If you think about trying to see past that that car. There are no cars there today. Right? They're not allo—they park perpendicular to these spots today. That just seems like it should be a concern. I'm sure, you know, if you think that through, it's a concern of yours as well that that's not safe.

Karen Cain (BOZ Member) 46:17

I assume your driveway is about two car widths?

Steven K. (Engage Orthodontics) 46:22

Probably three, maybe? Yeah.

Kelly Sperl (BOZ Member) 46:25

That's pretty wide.

Paul McCann (BOZ Chair) 46:26

Yeah.

Scott Engstrom (BOZ Member) 46:26

About 30 feet.

Paul McCann (BOZ Chair) 46:27

Yeah, looks like if you take these three parking spots, you could probably—it's probably close to 30 feet.

Scott Engstrom (BOZ Member) 46:35

27. Three times nine.

Kelly Sperl (BOZ Member) 46:36

Did you say you have a civil engineer that's doing your plan? Who is that?

Steven K. (Engage Orthodontics) 46:42

Do you remember the name? Kelvin? I forget the name of the—

Kelly Sperl (BOZ Member) 46:45

Oh, Harris and Associates.

Steven K. (Engage Orthodontics) 46:46

Yes.

Kelly Sperl (BOZ Member) 46:47

Tollefson?

Steven K. (Engage Orthodontics) 46:47

Yep.

Kelly Sperl (BOZ Member) 46:51

I just looked up a 25% requirement for greenspace. Lot coverage is 75%. Well, it looks pretty tight, but it's hard to tell because you got some in the south there and—

Steven K. (Engage Orthodontics) 47:07

Correct.

Kelly Sperl (BOZ Member) 47:08

—and up in front.

Paul McCann (BOZ Chair) 47:16

So, what did—we determined that this drawing you gained five spaces? Your request is to gain four spaces? Is that—I don't mean to split hairs.

Susie K. (Engage Orthodontics) 47:28

No, that's fair. That's fair. I was going off that sheet. Honestly, Steven, you probably know better than—

Steven K. (Engage Orthodontics) 47:33

I believe with subtracting one. I think overall, it's four spaces.

Kelly Sperl (BOZ Member) 47:38

Yeah, 'cause they lost one by the dumpster. They gain one in the middle.

Steven K. (Engage Orthodontics) 47:41

Yes.

Kelly Sperl (BOZ Member) 47:41

So, add those two cancel, and then they're picking up four on the east side. That's the way it looks to me.

Paul McCann (BOZ Chair) 47:55

Sorry, I don't have anything else to do. **[Note: It looked like he was possibly drawing a diagram.]**

Steven K. (Engage Orthodontics) 48:04

And prior—I mean, you know, I don't know that we have specific answers how to address your concern about the, the—

Paul McCann (BOZ Chair) 48:11

26. Yeah.

Steven K. (Engage Orthodontics) 48:12

—the three feet of—or five feet and then encroaching into the five feet with the bumper and all that stuff. But I mean, like at our house, we have tiny little shrubberies that are never going to get bigger than a certain amount that hopefully people won't just run right over. You know, hopefully they'll use that as a bit of a barrier.

Paul McCann (BOZ Chair) 48:27

Yeah. Can I—Can I ask you to come forward just look at this for a second. It's you're drawing. It—well, here, let me just show. Right, I just sort of numbered these and the spaces that you're adding are—right—19, 20, 21, 22, as I've shown here. So, he—I mean, here's my, my take on safety, and you wouldn't even need a variance. If you took out 18—that space. We'll call these things that way. You could comply with the eight-foot setback and you'd gain four spaces. You'd have 25 spaces. You see you have 21 now. So, the whole reason for pointing that out—I'm not trying to design your parking lot—

Steven K. (Engage Orthodontics) 49:19

Please.

Paul McCann (BOZ Chair) 49:25

But I think there's a reasonable way to add four parking spots without requiring this. So, Kurt, I'm saying take take this take out that one space, move that whole thing and you don't have to move it all the way back. Right, you have to move it three feet back.

Steven K. (Engage Orthodontics) 49:47

Yeah, I don't know, I don't know if then the issue would become if these cars have enough to get out without smashing into each other.

Supervisor Kurt Craanen (Inspections) 49:55

You would just need to [indecipherable] with whatever this island is.

Kelly Sperl (BOZ Member) 49:57

About 25 feet. Something like that.

Paul McCann (BOZ Chair) 50:00

That's not there.

Kelly Sperl (BOZ Member) 50:01

Because the total distance from there to there's 63 feet, I think, in the in the ordinance, but where are you talking about putting those, Paul, right?

Paul McCann (BOZ Chair) 50:13

I'm just saying—I'm saying that he can move it back by eliminating one parking spot. So I don't know that

Kelly Sperl (BOZ Member) 50:20

Oh, you're saying eliminate this all and shove these back.

Paul McCann (BOZ Chair) 50:22

Yeah, but I think

Kelly Sperl (BOZ Member) 50:24

But that kills this.

Paul McCann (BOZ Chair) 50:25

I think it's right, it might.

Steven K. (Engage Orthodontics) 50:27

I think this is an issue then.

Kelly Sperl (BOZ Member) 50:28

Yup. And you really can't get anything over here because you gotta have eight feet, you only have 10. So, if you picked up two feet, that doesn't, that doesn't solve anything, and then you've taken away that nice, mature buffer to the residential area.

Paul McCann (BOZ Chair) 50:49

Okay. That's why I don't design parking lots. But I mean, just I—it is a concern that you're too close to the sidewalk, and too close to the driveway with what is too close to the sidewalk is a pinch point for me.

Scott Engstrom (BOZ Member) 51:12

I guess in fairness and in balancing safety, you did mention that there had been previous complaints. I mean, are we talking one or two over the course of the time that you've been in that practice? One or two a year? One or two a month? You know, 50 a month during the winter? Can you give us a little bit of a flavor for what the scope of the complaints are? And—not to give you a multipart question, but also, have you had any issues of people falling, slipping, things like that during the winter?

Steven K. (Engage Orthodontics) 51:44

That I don't know. So, the so the original issue when—as we—I think when we first bought the practice, there was 12 team members, and now we're up 20-21. And so, the original issue was we've had most people parking here and then some along here to free up some space for the patients. Then we had so many staff members that we lined both sides here and we got complaints from the neighbors because that's clearly a safety hazard. Right? So that was a mess. So, then we rented this space over here for some staff members and they just walk here. That's that's fine. So, we still park along here. But where we really have issues is even with parking here and here. We still have a few people parked here so we don't bombard the neighborhood with cars.

Paul McCann (BOZ Chair) 52:44

So, the three people—there's, almost every day, three people who park opposite side of the street from your building right in line with your building?

Steven K. (Engage Orthodontics) 52:54

Yeah, that's from—

Paul McCann (BOZ Chair) 52:56

Is that the other?

Steven K. (Engage Orthodontics) 52:56

Yeah, these folks here.

Susie K. (Engage Orthodontics) 52:57

We get one spot. The other ones are from the for the other commercial building.

Paul McCann (BOZ Chair) 53:01

Yeah. Okay. You get one spot think in that.

Steven K. (Engage Orthodontics) 53:07

It's a gentleman's agreement.

Paul McCann (BOZ Chair) 53:08

Sounds like Boston parking.

Steven K. (Engage Orthodontics) 53:09

Yeah.

Susie K. (Engage Orthodontics) 53:10

We came in late to the game. They've been there longer than we had.

Paul McCann (BOZ Chair) 53:13

So, street parking, you get one of three. And it is—it is problematic that—you can't park both sides of Mathias. People are—no, I know, I know, you're more of a residential even—it's even worse. But people come flying around that corner. You can't be parked on both sides there.

Steven K. (Engage Orthodontics) 53:32

So, we don't do that. But, we do still park here. So that's better because at least makes it okay, right? But, so we eliminated that issue. But now we still have the issue of if they can't fit in here—if the patients can't fit in here, they're gonna have to find a spot here. So—

Paul McCann (BOZ Chair) 53:50

Sure

Steven K. (Engage Orthodontics) 53:50

—we've had people complain about—I think someone recently told her like, we're not—basically he left. He's like, I didn't wait, because I was just gonna have to park way down here, or you know, way over there.

Paul McCann (BOZ Chair) 54:02

Yeah, so I mean, is there any feeling in your mind that you've outgrown the property?

Susie K. (Engage Orthodontics) 54:07

I was waiting for you to say that. Of course.

Steven K. (Engage Orthodontics) 54:10

Yes.

Susie K. (Engage Orthodontics) 54:11

In the orthodontic world, we're right—very close to East High School. So, it's a really—and a Middle School right down the road too.

Paul McCann (BOZ Chair) 54:21

I have a lot invested in that building already. I had—

Susie K. (Engage Orthodontics) 54:24

I had a feeling—

Paul McCann (BOZ Chair) 54:24

—three daughters who—

Susie K. (Engage Orthodontics) 54:25

that you had gone past there, the Dr. Gabler era. So, we've talked about splitting it. I've talked about satellites, things like that, because of this issue, because I know—I know that it's not ideal, or any of that. And yet the location for us is pretty fantastic.

Steven K. (Engage Orthodontics) 54:44

And frankly, we're both about to be 47 years old. And so, it'd be starting over with a huge investment like that doesn't exactly sound appealing to us at 47 years old.

Paul McCann (BOZ Chair) 54:56

But it's—as the city is trying to tell you, it's a it's a building that's sized at 14 parking spaces should serve whatever could go in there, and it doesn't because of the nature of the practice there, and then the growth that you put in it. You know.

Kelly Sperl (BOZ Member) 55:14

Has the building ever been added on to? Do you—I mean, does that change since the original construction? Maybe Kurt, do you know?

Supervisor Kurt Craanen (Inspections) 55:22

If the building has been changed since the original?

Kelly Sperl (BOZ Member) 55:24

Has it been added on to square foot wise?

Supervisor Kurt Craanen (Inspections) 55:27

I can look. I don't know.

Susie K. (Engage Orthodontics) 55:29

It was. The basement was remodeled.

Kelly Sperl (BOZ Member) 55:32

Square foot—the footprint wasn't changed.

Paul McCann (BOZ Chair) 55:33

Yeah, no, I didn't think so.

Kelly Sperl (BOZ Member) 55:36

I have been by there many times. I just don't ever recall it being added on to over the years.

Supervisor Kurt Craanen (Inspections) 55:41

It looks like it was built in 94.

Steven K. (Engage Orthodontics) 55:41

No.

Susie K. (Engage Orthodontics) 55:43

Yes.

Supervisor Kurt Craanen (Inspections) 55:44

So, here's the permits that were issued. In '94 a building permit was issued and then they had a sewer—no, I take that back. I'm going the wrong way. Okay. Did have—a remodel in '04? I don't see any additions.

Paul McCann (BOZ Chair) 56:05

Yeah, I think the footprint has remained.

Kelly Sperl (BOZ Member) 56:06

That's kind of what I thought, how did we get so you know, out of wack proportionately with parking stalls

Susie K. (Engage Orthodontics) 56:13

We're very efficient with our space in the office.

Steven K. (Engage Orthodontics) 56:17

So, we had a consultant come in—

Susie K. (Engage Orthodontics) 56:18

Very creative.

Steven K. (Engage Orthodontics) 56:19

We had an orthodontic consultant coming in 2018 was that I think? And, and she got out the blueprints, and she started scratching off all this stuff and said, "know what, we're gonna change this room and split this room and do." So internally, we did everything we could in 2018.

Steven K. (Engage Orthodontics) 56:36

She forgot the parking lot. So, 2018, we did a major overhaul of—basically we we mostly gutted the internal space, and completely remodeled it to account for a more efficient patient flow. So, we've already invested significantly in this property.

Kelly Sperl (BOZ Member) 56:36

Forgot the parking lot.

Kelly Sperl (BOZ Member) 56:58

Oh, you got that easement on the one side and you got to street fronts, you know, which don't help.

Karen Cain (BOZ Member) 57:06

I don't know if this solves anything. But is there a way to modify it looks like a the entry there to shift that, the driveway, up a little bit to the north and give you a little bit more of a buffer between those spots?

Kelly Sperl (BOZ Member) 57:19

I don't think you gain anything depth wise. I mean.

Paul McCann (BOZ Chair) 57:25

No, she's—

Karen Cain (BOZ Member) 57:26

I'm just talking about Paul's concern where there's someone comes out of that, and they're right there, and there's there's a car here, and here's the driveway.

Steven K. (Engage Orthodontics) 57:33

Yep.

Karen Cain (BOZ Member) 57:34

Exactly.

Paul McCann (BOZ Chair) 57:35

Just just move the curb cut north? There's a there's a sidewalk there today, right? That comes off the side?

Scott Engstrom (BOZ Member) 57:41

A sort of walkway into the building.

Steven K. (Engage Orthodontics) 57:41
Yep.

Scott Engstrom (BOZ Member) 57:51
You would anticipate a drop in on-street parking from at least people visiting, correct?

Steven K. (Engage Orthodontics) 57:59
Definitely.

Scott Engstrom (BOZ Member) 58:01
So that's kind of where I, you know—talking about the safety thing and balancing, you know, what's what's safer, you know, or what causes a bigger risk to the public, you know, having, you know, adding an unknown number of—

Paul McCann (BOZ Chair) 58:17
But what's the hardship?

Paul McCann (BOZ Chair) 58:19
The the hardship is that the business has grown to the point where this parking lot is not sufficient anymore. And it's not one that we get to consider. Um, it's not—there's no irregular shape of the property that causes you to, you know—if there were a hill that fell off to one side and you couldn't use that.

Scott Engstrom (BOZ Member) 58:19
Sure

Scott Engstrom (BOZ Member) 58:40
I was thinking easement. I mean, an easement doesn't—

Paul McCann (BOZ Chair) 58:46
But the buffer—it's a residential. The easement's almost immaterial on that side, because you'd need that buffer anyway, between you and residential

Scott Engstrom (BOZ Member) 58:55
Sure.

Paul McCann (BOZ Chair) 58:58
I mean, it's a it's an orphan C-2 property kind of. It's off on its own, surrounded by buy houses.

Karen Cain (BOZ Member) 59:08
Part of my hang up is that you're comments were about community relations and customer relation or patient relations. And, you know, we're, we're not giving you all the parking lots you truly, truly need in order to defuse any issues along those lines. So that that's kind of what I'm grappling with a little bit. And I know five spaces is five spaces, and that's a good thing too, but you may still have the community relations issue and—

Paul McCann (BOZ Chair) 59:47
So let's come back to just the hardship, again, just to make sure I fully understand the the request. It is to reduce—it's because the lot is too small for the volume of traffic and the volume of—but it's not any different,

it's not any different than the guy across the street, right? I mean his lot's too small for his traffic as well. Those are full most days. You don't get to—you can't rent spaces from them—right?—because there's no spaces.

Susie K. (Engage Orthodontics) 1:00:37

In my brain is my, the hardship is that as many patients as I can get into that parking lot that don't have to be parking on the street at any given time.

Paul McCann (BOZ Chair) 1:00:48

Right.

Susie K. (Engage Orthodontics) 1:00:49

Especially in Wisconsin.

Steven K. (Engage Orthodontics) 1:00:50

Yeah. Because because the staff—I mean, they go out maybe once a day for lunch, you know. So they go to their car, they come back, maybe they go to the car one more time, come back, and then go home. But otherwise, you've got people potentially coming back and forth, back and forth all day long with young kids, in many cases. They're crossing the street. I mean, it's just—so to her point, if we could prevent just that activity from happening we're way better off.

Kelly Sperl (BOZ Member) 1:01:20

That I think goes to Scott's point about safety and that, and it is mainly, I gotta believe—I mean, my kids are grown and went through this already. But I gotta believe most of your patients are kids.

Steven K. (Engage Orthodontics) 1:01:31

A lot of them.

Kelly Sperl (BOZ Member) 1:01:31

Teenagers.

Steven K. (Engage Orthodontics) 1:01:32

Yep.

Karen Cain (BOZ Member) 1:01:33

So really the lot are just his patients, right?

Steven K. (Engage Orthodontics) 1:01:36

Correct. I mean, not that we don't care about our staff. But you know.

Kelly Sperl (BOZ Member) 1:01:41

Oh, you said they parked their car. And that's where it sits until they have lunch or leave?

Steven K. (Engage Orthodontics) 1:01:45

Correct? Yep.

Paul McCann (BOZ Chair) 1:01:52

So, one of the area variances that we can consider is undue off-street parking and loading hardships. It says we can waive or reduce the parking and load requirements—now that's different than what we're doing here—if

any of the district's...wherever the characteristics of the building is such as to make unnecessary to for provision of parking, or loading. This is the opposite of—yeah, it doesn't help.

Karen Cain (BOZ Member) 1:02:25

But loading, I mean, oftentimes, parent would drop the child off and come back and a half hour so it would be loading and unloading often.

Susie K. (Engage Orthodontics) 1:02:33

We honestly try to do more of that because of the situation we're in. So, it's, you know, consistent traffic.

Karen Cain (BOZ Member) 1:02:44

Yeah.

Kelly Sperl (BOZ Member) 1:02:46

It falls a little bit underneath item one, with the unnecessary hardship and in term that is used in the second for an area variant but demonstrating that strict—and I think strict compliance with the zoning ordinance issue can unreasonably prevent the property owner from using the property. I mean, it falls a little bit into that, I think.

Paul McCann (BOZ Chair) 1:03:07

Can't reach that far.

Kelly Sperl (BOZ Member) 1:03:49

Paul, where did you see that section about loading and unloading?

Paul McCann (BOZ Chair) 1:03:52

It's it's number five in 667. So let me let me if you don't mind. I'll read you a story. I mean, this basically says one of the—the preface is "the requested variance shall be reviewed by the Board of Appeals with the standards below." And this is one of the this is one of the six standards. This standard says "area variances for undue off-street parking and loading hardship standard." So that's—it says we can "waive or reduce the parking and loading requirements in any of the districts" (meaning C2 whatever it could be) "whenever the character or use of the building is such as to make unnecessary the full provision of the parking lot or loading facilities or when such regulations would impose an unnecessary hardship upon the use of a lot." So, what it applies to is if you were going to be required to have 50 spaces, and you could only have 40 and your business only required 20, we could say it's an unnecessary, undue hardship because you only need 20 spaces, code's saying you need 50, and you can only fit 40. So, it's the opposite of what we're doing here.

Scott Engstrom (BOZ Member) 1:05:21

It addresses floor requirements as opposed to ceiling require.

Paul McCann (BOZ Chair) 1:05:25

Exactly. Yeah, I was hoping it said the opposite that. But it—so it gives us no room to say that's the hardship we're dealing with here.

Scott Engstrom (BOZ Member) 1:05:34

One thing I'm thinking through is under F1. What exceptional or extraordinary circumstances or special factors or unique property limitations. So, it's not just it's not just physical limitations. And I think there are—to some degree, there's special factors. I mean, this is this is commercial, and it is intermingled largely with residential in

this area. I mean, we're all very familiar with kind of the way East High school is situated. There are some other, you know, dental offices in the area, but largely it is residential.

Paul McCann (BOZ Chair) 1:06:11

But it—okay.

Scott Engstrom (BOZ Member) 1:06:15

It's—no, no, it's just something I'm struggling with is—

Paul McCann (BOZ Chair) 1:06:18

Is it self-created?

Scott Engstrom (BOZ Member) 1:06:20

Well, I don't think so because they purchased the practice in 2016 or '17, and they didn't change the use. So, they entered into a building or a business that had been existing, and they were cont—they were continuing the use as the building had been used, as the parking lot had been used. So, it's not self-created in the sense that they changed the use or physical layout of the property or the or the parking lot. Not that that's decisive on anything, but I don't think that it's self-created.

Scott Engstrom (BOZ Member) 1:06:55

And when I went through my analysis, here—I'm looking at new items that kind of addressed that first standard, I wrote down, you know, the easement as well as the zoning of the surrounding properties. I don't—you know the harm to public interest; I look at the safety there. And I in my head, I—it's kind of a wash between the reduction in the off-street parking versus the the issues that are presented by the, you know, the bumpers hanging out and, you know, potential other concerns. I don't see it's self-created, but then I get to the hardship again, and I'm I'm just struggling to identify one.

Paul McCann (BOZ Chair) 1:07:43

Yeah. And I mean, we understand that there are hardships. I'm not saying that there aren't hardships. It's a—the definition we have to meet is an "unnecessary hardship." Right? I mean, is there something that you guys couldn't fix otherwise? And....

Kelly Sperl (BOZ Member) 1:08:07

I think, I mean, I think they're—they would probably fix it if they could. They're just limited by what size this property is. And I go back to Scott's point about the special factors here. And I, I think the growth of—I mean, obviously, we want anybody's business to succeed, but the unprecedented growth of that business in the what's going on there, I think, is a unique factor, a special factor in itself. And, you know, we do have some safety concerns with parking on the street or crossing those roads with the kids. And so.

Scott Engstrom (BOZ Member) 1:08:39

Oh, and I don't disagree with that. But at the same point, that's fundamentally kind of economic interests that we're talking about. And, you know, the business has expanded, and then it's to accommodate additional business, understanding that it's also staff that they're accommodating. But you know, is that—you know, are we addressing more of an economic interest there? And that being something that we can't?

Kelly Sperl (BOZ Member) 1:09:03

I mean, I obviously they're making money by having more patients, but I mean, it doesn't sound like they wouldn't be willing to spend money if they could to correct the issue.

Scott Engstrom (BOZ Member) 1:09:11

Sure.

Kelly Sperl (BOZ Member) 1:09:12

You know, I see your point, but yet, I don't know.

Paul McCann (BOZ Chair) 1:09:14

You're not making an economic—they're not trying to save money.

Kelly Sperl (BOZ Member) 1:09:17

Right.

Scott Engstrom (BOZ Member) 1:09:18

Right.

Kelly Sperl (BOZ Member) 1:09:19

They're not trying to not do something just because of money.

Scott Engstrom (BOZ Member) 1:09:21

Yeah.

Paul McCann (BOZ Chair) 1:09:21

But but, you know, our standard, as it says in the is—you know, would would not having a five-foot buffer, unreasonably prevent them from using the property for its permitted purpose? And I think the answer is no. I mean, I don't think it really does. Because you can reasonably use the property for its permitted purpose today or by adding two more spots, three more spots, whatever you can get out of not taking away that eight-foot buffer.

Paul McCann (BOZ Chair) 1:09:58

I don't think that eight-foot buffer is, you know, sacred by any means, but I don't know that removing it solves your problem is kind of where—and I think it does create—I mean, you know, instead of eight people having to cross the street, you have four. I don't—so it doesn't solve that problem, but it creates a problem in my mind for foot traffic on the sidewalk there, and your people coming out of the driveway that won't be able to see well enough to the south. So.

Kelly Sperl (BOZ Member) 1:10:32

You know, one thing, I'm looking at the staff analysis, and it says that the easement on the west side of the parcel does limit the number of parking spaces that may be added to this property. So.

Paul McCann (BOZ Chair) 1:10:45

I don't know where they came to that conclusion.

Kelly Sperl (BOZ Member) 1:10:48

I don't know either. I'm throwing it out there. I didn't know where it came from.

Paul McCann (BOZ Chair) 1:10:52

Kurt, do you understand why that would be because aren't they still—they're still going to be required to have a 10-foot buffer there.

Kelly Sperl (BOZ Member) 1:11:00

Eight foot.

Paul McCann (BOZ Chair) 1:11:01

Or is it eight foot?

Karen Cain (BOZ Member) 1:11:02

To the residential?

Supervisor Kurt Craanen (Inspections) 1:11:03

Oh, well, it just—it was a unique characteristic of the lot that there was an easement there. But you're saying that that they could park on there anyway, regardless, because they would be required to have a buffer?

Paul McCann (BOZ Chair) 1:11:15

So even though—

Supervisor Kurt Craanen (Inspections) 1:11:15

It was the only unique characteristic I could find.

Paul McCann (BOZ Chair) 1:11:17

Yep. Understood.

Steven K. (Engage Orthodontics) 1:11:20

And I would add something else here, too. So, we're blessed enough that the business grew to the point that we have this issue to talk about here today, right?

Paul McCann (BOZ Chair) 1:11:31

Yeah.

Steven K. (Engage Orthodontics) 1:11:33

And yes, money comes along with it, but that's not the driving force here. I mean, your—as a matter of fact, I'd go so far as to say so she took on a bunch of patients from another practice. So, if you guys are familiar with Fox—is it Fox Valley Orthodontics? They were down down the street on Calumet Street.

Steven K. (Engage Orthodontics) 1:11:53

We really didn't want to take on that practice, because she was already too busy. But there's only so many orthodontists to go around. Right? So, it's like they do each other—he he was waiting to retire for many years, couldn't find another orthodontist take over that building because it wasn't a great location, so instead we just took the patients on at our location. So, I would say not in our wildest dreams did we expect the practice to do what it did here. So, whoever made that point about buying an existing practice, we were we were not planning on growing to the point where this would become such a significant problem.

Steven K. (Engage Orthodontics) 1:12:28

But I will say, though, that we have, for better or worse—probably partially because of this issue—we've kind of plateaued, right? So, it's not like, if we solve the issue, some—like, well, who cares, because it's just going to continue to be a bigger and bigger issue? That's not the case here. Like we're painting kind of a worst-case scenario of all these patients at one time, but a little bit does help a lot and like the lot isn't full full all the time. It's filled some of the time. So, if we can prevent little kids and stuff running down the street, that's better than a little bit of an over full parking lot and someone's got a look around the corner a little bit. Not ideal. Can we mitigate that somehow with shrubbery or maybe a concrete stop or something there to alleviate that right now? I don't know if you can see the Street View. There's a big substantial tree there. So that's already an impediment for people to have to see around that too. So, it might actually help in that issue if we take down that tree and put up a smaller tree that people can see around better too.

Steven K. (Engage Orthodontics) 1:13:40

I don't think you can see it too well in the aerial view but you can certainly see if you go down low.

Paul McCann (BOZ Chair) 1:13:47

Yeah. The one in the southeast corner is actually laying was laying on the sidewalk two days ago. All right.

Scott Engstrom (BOZ Member) 1:14:38

That one

Steven K. (Engage Orthodontics) 1:14:43

Not that one but the one by the

Kelly Sperl (BOZ Member) 1:14:46

Cone shaped one?

Susie K. (Engage Orthodontics) 1:14:48

Yeah.

Steven K. (Engage Orthodontics) 1:14:49

Yeah.

Paul McCann (BOZ Chair) 1:14:54

Again, I mean, just from a safety standpoint, the way the city's requirements are, that is is clear enough up to three feet or five feet that you can see. And that's not the tree that's laying on the sidewalk. It's the neighbor's tree there. You just see if there was a car parked where that tree is though, doesn't give you a lot to see around it.

Paul McCann (BOZ Chair) 1:15:41

Okay, any other questions for the applicant? If there are no more questions, we'll entertain a motion on the variance.

Scott Engstrom (BOZ Member) 1:15:57

I'll make a move—motion to approve for purposes of moving this to discussion.

Karen Cain (BOZ Member) 1:16:01

Seconded.

Paul McCann (BOZ Chair) 1:16:03

Moved and seconded. Is there further discussion?

Scott Engstrom (BOZ Member) 1:16:09

Again, I'm struggling with the hardship component. I personally think that the the easement that we—I understand that the impact is kind of null, but I do think that easement is a unique characteristic in a property. And I think that the zoning—this kind of being an aberration compared to the other properties, that's another consideration. And again, like I said, the—I think the safety interest for me is at least a wash. But it doesn't really advance one or the other. And I think an argument can also be made that, you know, to Paul's point, it could present additional issues. I don't believe it's self-created. But again, then I get to that hardship bullet. And I—I'm not a—I'm not able to find anything that gets to that standard.

Paul McCann (BOZ Chair) 1:17:05

Yeah, the undue hardship kind of just just is a threshold that we haven't really crossed. Any other discussion?

Kelly Sperl (BOZ Member) 1:17:16

I think if—you know if it made it to that point, I think, in the site plan review process, you know, they look for things like, you know, where to put a stop sign in and you know, some of that kind of stuff and where to hold vision triangles open too as far as plantings and that kind of stuff. So, some of those things I think could be addressed which may make the the safety factor probably more positive than negative. But I go back—you know, unless we can call this a special factor, I'm not sure what other hardship there is.

Paul McCann (BOZ Chair) 1:17:52

And I do think—I think, Kurt, do you think site plan would take a second look at this and figure out if there's a better answer, or is this...?

Supervisor Kurt Craanen (Inspections) 1:18:02

You mean, you reconfigure the what's the layout?

Kelly Sperl (BOZ Member) 1:18:06

I mean, that's really a civil engineer's job. But I, I—you know, there's only so much room there.

Paul McCann (BOZ Chair) 1:18:11

Right.

Kelly Sperl (BOZ Member) 1:18:12

You know, there's there's only two traffic aisles, and I just don't know where you go.

Paul McCann (BOZ Chair) 1:18:22

Right.

Karen Cain (BOZ Member) 1:18:24

This facade looks so nice the way it is. You don't really want to cut into that either.

Paul McCann (BOZ Chair) 1:18:28

No, this sidewalk coming up. The plantings are nice there too. And they've always been well taken—you've done a nice job taking care of all that.

Susie K. (Engage Orthodontics) 1:18:36

I'm happy to take that out. I hear what you're saying.

Paul McCann (BOZ Chair) 1:18:42

Okay, any additional discussion? And we'll—

Steven K. (Engage Orthodontics) 1:18:46

I have a—I guess I have a question. I've struggled with the word "hardship" from the very beginning, when when it's, you know, I was given the handbook of what you guys are probably looking at right now. Guess like, when I think of the term hardship, I think of, like, Oh, I'm like, "poor us" kind of thing. And I know, that's not really how it's meant. But can you guys explain to me like a hardship from your perspective? What exactly are you looking here for? Because are you talking about—like, it sounds like you guys are focused on the physical limitations of the lot? Right? Is that correct?

Paul McCann (BOZ Chair) 1:19:23

Because—I mean, that the two choices that we have, or the two types of variances that we see are area variances, which is basically do you have the space on the property to do what you need to do? And—or usage variances, which would be could you put a drive-in movie theater on this property? Right?

Steven K. (Engage Orthodontics) 1:19:42

Right, right.

Paul McCann (BOZ Chair) 1:19:44

It wouldn't fit this property, and we probably would say it's not appropriate for this property. So, when you when you go back to the area of variance, then it's a matter of this is a C 2 property. What's the parking requirement there? And that's the 14. And is there anything that—anything related to this property that makes that unfair, right? And more often than not, people are trying to get 13 spaces instead of 14, and you're fighting that direction.

Paul McCann (BOZ Chair) 1:20:20

And then because of the 14 and because of the site requirements, then they have—they want a buffer between your property and the next property. And this assumes that these are two C-2 properties abutting each other, or even across from each other. But—so the guy across the street has to have eight feet between him and the sidewalk, and you have to have eight feet between you and the sidewalk. And it's to keep things in your business from interfering with people who want to use the sidewalk and the street.

Paul McCann (BOZ Chair) 1:20:51

So, what we're faced with is then the onus is on the property owner to come to us and say, "That's unfair. There is an an on necessary hardship put on us. And we cannot use this property for the purpose that it's approved to be used for because of the eight-foot setback" or because of.... So that you guys came and said, "We need 40 parking spaces. We can we could only fit 21 on this. Can you give us relief, to give us 26?" Right? And the hardship that you expressed was, "The more we can get, the less impact we're going to have on the surrounding neighborhood." Is that an unnecessary hardship that crosses the threshold that says this property is unique enough? And this goes with the life of the property. Somebody could move into here with a much smaller business and they'd still have a variance for a five foot.

Paul McCann (BOZ Chair) 1:22:01

So, is it personal? And that's the other. And it is personal; it is directly related to the business that you're operating there now. It's you guys with a successful orthodontics business in here, that's creating the pinch point. So, it's, you know, in my view, one of four opinions here, but in my view, there's nothing unusual about this property that says, without a five foot setback, nobody can use this property for a commercial endeavor.

Paul McCann (BOZ Chair) 1:22:36

So, then you start to say, you know, is there is there a reason to, to give some additional consideration to that? Is there something else? And I haven't found it yet tonight, and I've actually expressed to you that I think it—I mean, I think you could make a mistake and create a safety issue here that is totally unintended. You guys wouldn't create that on purpose. But it could make it worse—shift the safety problem somewhere else, and I—and so that's what I was trying to grapple with, figure out. It's a little bit of a scale. Right?

Paul McCann (BOZ Chair) 1:23:18

And I don't think—I don't think we've—and I mentioned, I don't think we've solved the problem. I think you could make it a little bit less of a parking problem. But then I—then the scale tips back and says, kid on the tricycle on the sidewalk. And that's—we refer to that all the time with people who try to build six-foot fences. If that six-foot fence was really close to their driveway, and some—you know, they could back out and not see somebody, we probably wouldn't have approved that tonight. It's not, and you heard that discussion, heard somebody say it's far enough away from the driveway that that's not an impact. So anyway, the whole definition of "undue hardship" is can you do nothing else with this property? Can you can you not do what this property is approved for without this variance?

Paul McCann (BOZ Chair) 1:23:18

There's many times I don't necessarily like the word hardship in applying it to all these things, but those are the statutes and the rules and regulations that we have to follow.

Scott Engstrom (BOZ Member) 1:24:31

Yeah, we—it is not the role of the board to to write the ordinances or to even discern the wisdom of them. We're here to apply the facts to the ordinances as written. For example, there's inconsistency between, you know, where it says "unnecessary hardship" in the code sections we've been referencing, and you go the definition section, it says "undue hardship". I can give you the definition, though, and it's referencing the same same standard, I'm just not sure if it's been corrected or hasn't been corrected. But "undue hardship" or "unnecessary hardship" as used in connection with granting of a variance means "the property in question cannot be put to any reasonable use if established under the conditions required by this chapter and where the plight of the landowner is due to circumstances unique to his property, not created by the landowner and the variance, if approved, will not alter the essential character of the locality. Economic considerations alone shall not constitute an undue hardship, if any reasonable use for the property exists under the terms of the zoning ordinance." So that's kind of the legal/technical definition that we're looking at and that we're trying to operate with, trying to operate under.

Paul McCann (BOZ Chair) 1:25:48

Yeah, and so you can see the concern as much I think anyway.

Paul McCann (BOZ Chair) 1:25:56

So, we'll take a vote. So it—the motion on the table is to approve the variance

Scott Engstrom (BOZ Member) 1:26:01

With an aye vote being to approve, nay vote being not to approve.

Paul McCann (BOZ Chair) 1:26:05

That's right.

Scott Engstrom (BOZ Member) 1:26:05

Yep.

Paul McCann (BOZ Chair) 1:26:06

Okay, so everyone understands. So, Mr. Engstrom?

Scott Engstrom (BOZ Member) 1:26:09

Nay.

Paul McCann (BOZ Chair) 1:26:11

Mr. Sperl?

Kelly Sperl (BOZ Member) 1:26:12

Nay.

Paul McCann (BOZ Chair) 1:26:13

Miss Cain?

Karen Cain (BOZ Member) 1:26:13

Nay.

Paul McCann (BOZ Chair) 1:26:14

I'll vote no as well. So, back to the drawing board, I'm afraid. So, thank you for your time today. Appreciate you coming.

Susie K. (Engage Orthodontics) 1:26:22

Yours as well. We appreciate all your help in talking it through with us.

Scott Engstrom (BOZ Member) 1:26:26

And thanks for what you do for the community. It's a great thing. So, it's a valuable service. We're not here to— I'm a product of orthodontia. So.

Paul McCann (BOZ Chair) 1:26:26

Sure.

Susie K. (Engage Orthodontics) 1:26:36

That is all good. Appreciate you.

Scott Engstrom (BOZ Member) 1:26:39

Take care. Thank you.